

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BENJAMIN FLORES, etc.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 10 C 1189
	)	
FRESHLINE FOODS, INC.,	)	
et al.,	)	
	)	
Defendants.	)	

MEMORANDUM

Freshline Foods, Inc. ("Freshline") and its two individual principals (John and Peter Siakotos) have filed their Answer to the First Amended Class Action Complaint brought against them by Benjamin Flores ("Flores"), who sues them both individually and as a putative class representative. This memorandum is issued sua sponte to require clarification of one puzzling aspect of that responsive pleading.<sup>1</sup>


At several places in the Answer defendants acknowledge that there were individual work weeks in which Flores did indeed work more than 40 hours but did not receive overtime pay for the hours worked in excess of 40 (Answer ¶3 is a typical example). In addition, other paragraphs of the Answer admit the several other statutory components that are needed to bring defendants within

---

<sup>1</sup> This memorandum order does not address the appropriateness or inappropriateness of class action treatment, a subject that remains for future consideration. Instead it focuses on Flores' individual claim (although what is said here may apply to other Freshline employees as well).

the scope of the FLSA and its Illinois statutory counterpart. Yet despite those admissions, defendants still deny that their nonpayment of the overtime premium violated the two statutes (see, e.g., Answer ¶¶29, 30, 36-38 and 45).

Those responses appear irreconcilable at least in facial terms, so that there must be something more here than meets the eye. Because the next scheduled status hearing date of June 4 is some distance off, this Court requests that at their considerably earlier convenience defense counsel file an amendment to the Answer (not a new self-contained Amended Answer) to explain the disparity.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style.

---

Milton I. Shadur  
Senior United States District Judge

Date: April 28, 2010